

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JACQUELINE MISNAZA,

Plaintiff,

-against-

ORDER
20-CV-3804 (JS)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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APPEARANCES

For Plaintiff: Daniel Adam Osborn, Esq.
Osborn Law
43 West 43rd Street, Suite 131
New York, New York 10036

For Defendant: No appearance.

SEYBERT, District Judge:

On August 19, 2020, plaintiff Jacqueline Misnaza ("Plaintiff") filed a Complaint against the Commissioner of Social Security seeking review of the decision of the Administrative Law Judge pursuant to Section 205(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g), together with an application to proceed in forma pauperis ("IFP"). (Compl., D.E. 1; IFP Mot., D.E. 2.) For the reasons that follow, the application to proceed in forma pauperis is DENIED WITHOUT PREJUDICE and with leave to renew upon completion of the AO 239 in forma pauperis application form. Alternatively, Plaintiff may remit the \$400.00 filing fee.

On the in forma pauperis application, Plaintiff reports that she is employed at US Pack and that her weekly take-home pay

is \$1,100.50. (See IFP Mot. ¶ 2.) Although Plaintiff reports that she has not received an income in the past twelve months from any other source, she represents that she has \$16,512.65 in her savings and/or checking accounts. (See IFP Mot. ¶¶ 3-4.) As reported, the only item of value Plaintiff owns is a 2002 Toyota RAV4 with an approximate value of \$1,500.00. (See IFP Mot. ¶ 5.) Plaintiff reports regular monthly expenses, including housing, transportation, food, and utilities, totaling \$2,555.00 (IFP Mot. ¶ 6.) She also reports that she contributes \$600.00 a month to support her mother. (IFP Mot. ¶ 7.) In answering whether she has any debts or financial obligations, Plaintiff wrote "I've consol[i]dated all my debts in Feb. 2019 \$22,000⁰⁰ including hospital bills \$2200 still owed." (IFP Mot. ¶ 8.) The Court finds Plaintiff's response concerning her financial obligations to be incomplete and unclear.

Because Plaintiff's responses do not permit the Court to conclude that she is qualified to proceed in forma pauperis, Plaintiff's application is DENIED WITHOUT PREJUDICE to a renewal upon completion of the AO 239 in forma pauperis application form annexed to this Order. Plaintiff is directed to either remit the \$400.00 filing fee or complete and return the enclosed in forma pauperis application (AO 239) application within fourteen (14) days from the date of this Order. Plaintiff shall set forth her

current financial position on the long form in forma pauperis application (AO 239) as best she can under the circumstances. Plaintiff is cautioned that a failure to timely comply with this Order will lead to the dismissal of the Complaint without prejudice and judgment will enter.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to include the AO 239 in forma pauperis application form with this Order.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: October 29, 2020
Central Islip, New York